

1 UNITED STATES OF AMERICA,)
 2)
 3)
 4 v.) C-04-3055 DLJ
 5) CR-04-40127-DLJ (related case)
 6 THOMAS GROSSI, LAURETTA WEIMER)
 7 and ALBERT B. DEL MASSO)
 8)
 9 In the matter of \$608,916.58)
 10 IN U.S. CURRENCY, AS SUBSTITUTE)
 11 RES FOR REAL PROPERTY LOCATED AT)
 12 2638 MARKET STREET, OAKLAND,)
 13 CALIFORNIA)
 14 _____)

11 This Court has ordered that the forfeiture of property
 12 related to the criminal proceedings in CR 04-40127, U.S. v. Grossi,
 13 should not apply to Petitioner Laurretta Weimer's \$100,000 loan to
 14 Grossi, which the Court found Grossi had used to purchase the
 15 forfeited Market Street property. In making that determination, the
 16 Court relied in part on the promissory note between Weimer and
 17 Grossi which reflected the terms of the loan. The terms of the
 18 promissory note called for repayment in full on or before November
 19 30, 2006.

21 At a May 18, 2007 hearing the Court ordered the defendant to
 22 provide documentation regarding what payments Grossi made to Weimer
 23 on the loan, including which payments were toward principal and
 24 which toward interest. Defendant was to serve a copy of its
 25 response on the government and then the Court would issue an Order.

27 On May 29, 2007 Laurretta Weimer filed with the Court an
 28 Application for Modification and Clarification of the Preliminary

1 Forfeiture Order. Instead of responding to the Court's Order
2 regarding information on loan repayment, this filing instead took
3 the position that the repayment of the loan was immaterial to the
4 Court's determination of money to be returned to Weimer, and was
5 merely a matter between brother and sister. Although Grossi filed
6 a declaration in support of the Application, it did not set out the
7 amount of any payments, but rather reiterated that repayment of the
8 loan was "a matter that will be determined solely between [Grossi]
9 and Ms. Weimer, in [their] personal relationship as brother and
10 sister." Grossi Dec. Of May 25, 2007 at ¶ 3.

12 On June 4, 2007 counsel for the government faxed a letter to
13 Grossi's counsel requesting discovery regarding payments made on
14 the \$100,000 promissory note. Specifically, this letter requested
15 "[i]n addition to payments . . . documentation regarding the unpaid
16 balance of the note and documentation, if any, regarding
17 forgiveness or extension of any portion of the balance of the
18 note." Counsel enclosed the bench notes from the May 18, 2007
19 hearing reflecting the defendant's obligation to provide this
20 information.
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22 On June 6, 2007 the government filed an Opposition to
23 Laretta Weimer's Application for Modification. This pleading, in
24 part, urged the Court not to rule on the amount owing to Weimer
25 until the requested discovery had been provided.
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27 On June 7, 2007 Petitioner filed a Reply Memorandum taking
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1 the position that Grossi's May 25, 2007 declaration "is sufficient
2 to alleviate the concern" about the amount due back to Weimer and
3 would "allow the parties to resolve that issue between themselves,
4 as is appropriate."

5 The Court held a further hearing on this matter on June 8,
6 2007. At that hearing the Court once again ordered that within 30
7 days defendant was to provide to the government discovery as to all
8 payments.

9 On June 13, 2007 in response to the Court's order a
10 "Notice of Payments on Laretta Weimer Loan re: Preliminary Order
11 of Forfeiture" was filed with the Court. This document sets out
12 payments made by Grossi to Weimer both before and after the date
13 the property was seized by the government. The filing does not
14 provide any supporting documentation, nor are there any
15 declarations. Rather, this document, signed by Attorney Michael,
16 states that from the period starting 1 January 2004 until 4 June
17 2004, total principal payments of \$12,333.20 were made and that
18 "[s]ubsequent to 4 June 2004, Grossi continued sending funds to his
19 sister, Laretta Weimer, until an amount equal to his obligation to
20 her under the promissory note had been paid over." See Notice of
21 Payments, dated June 13, 2007.

22 Because the Court had received no documentation from
23 Petitioner Weimer directly, on June 27, 2007 the Court issued an
24 Order regarding Ms. Weimer's status. This Order informed the
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1 parties that based on the representation by counsel that Grossi had
2 paid his sister an amount equal to the value of the loan, the Court
3 would proceed on the assumption that Ms. Weimer concurred unless
4 clarification was filed with the Court within 10 days of the date
5 of the Order.

6
7 The intent of that Court Order was to offer an opportunity
8 for Ms. Weimer, by declaration or otherwise, to inform the Court of
9 her position on the repayment of the loan. However, the responsive
10 filing by Petitioner dated July 9, 2007 did not clarify Ms.
11 Weimer's position. This filing, for the first time, argues that
12 the loan was somehow extinguished by the sale of the property and
13 that as of the date of the sale Ms. Weimer had no legal right to
14 repayment.

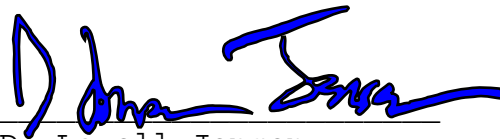
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16 Instead of clarifying Ms. Weimer's position as to whether or
17 not the \$100,000 loan has been repaid to her in part or in full,
18 this latest filing seems to add greater uncertainty. Therefore,
19 the Court renews its Order of May 18th, as amplified by the
20 government's discovery request of June 4, 2007.

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22 Within 15 days of the date of this order, counsel for
23 Petitioner/Defendant is to provide the Court and to serve on the
24 Government: any available documents, including, but not limited to,
25 copies of checks, transmittal documents, or correspondence related
26 to any and all payments made to Laurretta Weimer relating to the
27 \$100,000 loan, or as to any correspondence related to a revision of
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any terms of the loan.

IT IS SO ORDERED

Dated: July 13, 2007



D. Lowell Jensen
United States District Judge